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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,955	08/10/2006	Xavier Barrilalonso	010180.00041	1004
22907 7590 10/30/2008 BANNER & WITCOFF, LTD. 1100 13th STREET, N.W. SUITE 1200 WASHINGTON, DC 20005-4051				
EXAMINER				
COPPINS, JANET L				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
10/30/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/553,955

**Applicant(s)**

BARRILALONSO ET AL.

**Examiner**

JANET L. COPPINS

**Art Unit**

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20, 23 and 24 is/are pending in the application.  
4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1 and 23 is/are rejected.  
7) ☒ Claim(s) 2-18 and 24 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-20, 23 and 24 are pending in the instant application.

#### ***Response to Amendment***

2. Applicants' Response of July 29, 2008 has been reviewed by the Examiner and entered in the file. Accordingly, claims 1-20, 23 and 24 are currently pending in the instant application.

The scope of the invention of the elected subject matter, as defined in the previous Office Action, is as follows: Compounds and compositions of Formula (I), depicted in claim 1, wherein: **R<sub>1</sub>** and **R<sub>2</sub>** each contain aryl radicals, and the remaining variables are as defined in the claims.

3. Claims 4-8, 12-15 and 18-20 are currently withdrawn from consideration as drawn to non-elected subject matter.

#### ***Previous Claim Rejections –***

##### ***35 USC § 102***

4. Claims 1- 3, 9-11, 16, 17, 23 and 24 previously rejected in part under 35 U.S.C. 102(e) as being anticipated by WO 03/055860 A1 to Drysdale et al. In view of Applicants' persuasive arguments, the rejections have been withdrawn.

#### ***Status of the Claims***

5. Since the pending art rejections have been withdrawn, the scope of the invention of the elected subject matter has been expanded to include all compounds and compositions according to formula (I), i.e. claims 4-8, 12-15 and 18 are herein rejoined for examination on the merits. Claims 19 and 20, drawn to methods of use, remain withdrawn from consideration.

#### ***New Claim Rejections-***

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 23 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants recite a “A compound... or a salt, hydrate or solvate thereof,” however, it is unclear from the claims themselves which hydrates or solvates Applicants are intending to claim.

Applicants briefly reference addition salts of the claimed compound on page 6. Applicants mention solvate and hydrate forms of the instant compounds on page 4 of the Specification, “... and the invention includes all novel members of that class and their salts, hydrates and solvates,” but do not discuss any possible hydrates or solvates within disclosure itself or the claim, therefore it is confusing as to which hydrates or solvates are intended.

***Claim Objections***

8. Claims 2-18 and 24 are objected to as being dependent on rejected base claims.

***Conclusion***

9. In conclusion, claims 1-20, 23 and 24 are pending in the application, claims 19 and 20 are currently withdrawn, claims 1 and 23 are rejected, and claims 2-18 and 24 are objected to.

***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANET L. COPPINS whose telephone number is (571)272-0680. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571.272.0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/REI-TSANG SHIAO /

Janet L. Coppins  
October 27, 2008

REI-TSANG SHIAO  
Primary Examiner, Art Unit 1626